



Docket No.: 219425USO

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RE: Application Serial No.: 10/084,453
Applicants: Linqiu CAO, et al.
Filing Date: February 28, 2002
For: IMPROVED CROSSLINKED ENZYME
AGGREGATES AND CROSSLINKING AGENT
THEREFOR
Group Art Unit: 1711
Examiner: Tran, T. T.

SIR:

Attached hereto for filing are the following papers:

Election of Species

Our check in the amount of _____ is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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DOCKET NO: 219425US0



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
LINQIU CAO, ET AL. : EXAMINER: TRAN, T. T.
SERIAL NO: 10/084,453 :
FILED: FEBRUARY 28, 2002 : GROUP ART UNIT: 1711
FOR: IMPROVED CROSSLINKED :
ENZYME AGGREGATES AND
CROSSLINKING AGENT THEREFOR

ELECTION OF SPECIES

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Responsive to the Office Action requiring an Election of Species, dated June 24, 2004, Applicants respectfully request reconsideration of the above-identified application in view of the following.

The Examiner has required an election of species as follows:

- (a) a method for the preparation of crosslinked enzyme aggregates;
- (b) a method of crosslinking a protein to a carrier.

Applicants select species (a), **with traverse**.

Claims 1-12, 14-17 and 20-21 all read on the elected species. (The Examiner has failed to list Claims 20 and 21 as pending claims.) The Examiner bases the above election of species on the ground that the claims cover patentably distinct species. Under MPEP § 803,

the burden is on the Examiner to support any conclusion in regard to patentable distinctness. The Examiner has offered no reasons and/or examples to support the conclusion of patentable distinctness between species (a) and (b). Indeed, species (b) requires the particulars of species (a), because Claim 18 of species (b) depends on Claim 10 of species (a).

Moreover, MPEP § 803.02 states:

If the numbers of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the Examiner **must** examine all claims on the merits, even though they are directed to independent and distinct inventions.

(Emphasis added.)

It would not appear to pose a serious burden for the Examiner to search and examine the entire application, especially since claims reciting the crosslinking agent for both species have already been examined.(a) and (b).

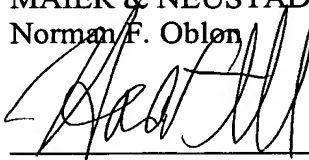
In view of the above, it is respectfully requested that the election of species requirement be withdrawn, and that a search and examination of the entire subject matter embraced by the present claims be conducted.

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Reply to Office Action of June 24, 2004

Otherwise, Applicants note that should no prior art be found that anticipates or renders obvious the elected species, the search of the Markush-type claim will be extended. MPEP § 803.02.

Respectfully submitted,

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